

ESTTA Tracking number: **ESTTA549744**

Filing date: **07/22/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Cleveland Indians Baseball Company Limited Partnership
Granted to Date of previous extension	07/21/2013
Address	2401 Ontario Street Cleveland, OH 44115 UNITED STATES
Attorney information	Aryn M. Emert Cowan, Liebowitz & Latman, P.C. 1133 Avenue of the Americas New York, NY 10036-6799 UNITED STATES ame@cll.com, jmn@cll.com, trademark@cll.com Phone:212-790-9200

Applicant Information

Application No	79108570	Publication date	01/22/2013
Opposition Filing Date	07/22/2013	Opposition Period Ends	07/21/2013
International Registration No.	1105239	International Registration Date	06/27/2011
Applicant	Light Tribe Creations N.V. Wilhelminalaan 13 Curaçao CW		

Goods/Services Affected by Opposition

<p>Class 025.</p> <p>All goods and services in the class are opposed, namely: Clothing, namely, shirts, pants, jackets, skirts and dresses; footwear, headgear, namely hats and caps</p>
<p>Class 035.</p> <p>All goods and services in the class are opposed, namely: Mediation of advertising and public relations; organizing of trade fairs and exhibitions for commercial purposes; business administration; market research and -analysis; Distribution of advertising materials; business organization consultancy related to electronic commerce and electronic business; creation and development of business concepts and company strategies with regard to company communication and commercial management; drafting expertise reports in the field of market research and studies related to consumer behavior in relation to trademarks and trends; consulting services in the field of the development of commercial business plans for strategies in the field of e-commerce and e-business, as well as drafting of business organization reports in these fields; providing data with regard to sustainable consumer goods for publicity and promotion purposes; distribution of advertisements of third parties via an online electronic network, publicity and sales promotion services; business</p>

management; marketing services; conducting public opinion polls; mediation of trade business for third parties; business consulting in regard to usage of electronic retail and on-line databases for business purposes; advertising and commercial information services, via the internet

Class 038.

All goods and services in the class are opposed, namely: Providing internet chatrooms, transmitting digital messages, sound and/or images via computers; providing telecommunications connections to the internet or databases; news agency services for electronic transmission; providing access to databases; providing multiple-user access to data on the Internet in the field of searchable buying and selling guide for the purpose of localizing, organizing and displaying goods and services of third parties

Class 041.

All goods and services in the class are opposed, namely: Information in the field of entertainment, recreation, sport; providing online information for the purpose of leisure and entertainment; publication of magazines, newsletters and periodicals; on-line publication of magazines, newsletters and periodicals; education and training services, namely, providing seminars and classes in the field of wellness, health food, creative expression, eco activities, empowerment, fair trade, alternative energies, and body mind therapies; film and video production; entertainment services, namely, multimedia production services; production of sound and image recordings on sound and image carriers; organizing community sporting and cultural events; entertainment event booking agencies for the purpose of attending cultural, educational and sports events

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1857634	Application Date	10/13/1992
Registration Date	10/11/1994	Foreign Priority Date	NONE
Word Mark	THE TRIBE		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 016. First use: First Use: 1989/11/00 First Use In Commerce: 1989/11/00 [paper products and printed matter; namely, newsletters pertaining to baseball, wall calendars, baseball programs, note pads to promote a professional baseball team]</p> <p>Class 041. First use: First Use: 1989/11/00 First Use In Commerce: 1989/11/00 entertainment services in the nature of professional baseball exhibitions</p>		

U.S. Registration No.	3659395	Application Date	10/28/2005
Registration Date	07/21/2009	Foreign Priority Date	NONE
Word Mark	TRIBE		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 041. First use: First Use: 1917/05/28 First Use In Commerce: 1917/05/28 ENTERTAINMENT SERVICES, NAMELY, BASEBALL GAMES, COMPETITIONS AND EXHIBITIONS RENDERED LIVE AND THROUGH BROADCAST MEDIA INCLUDING TELEVISION AND RADIO, AND VIA A</p>		

	GLOBAL COMPUTER NETWORK OR A COMMERCIAL ON-LINE SERVICE; INFORMATION SERVICES, NAMELY, PROVIDING INFORMATION IN THE FIELD OF SPORTS, ENTERTAINMENT AND RELATED TOPICS, AND PROVIDING FOR INFORMATIONAL MESSAGES RELATING THERETO; EDUCATIONAL SERVICES IN THE NATURE OF BASEBALL SKILLS PROGRAMS, BASEBALL CAMPS, AND CLINICS OFFERED LIVE; ORGANIZING COMMUNITY SPORTING EVENTS; PROVIDING FACILITIES FOR SPORTS TOURNAMENTS AND COMPETITIONS RELATING TO BASEBALL; ORGANIZING AND CONDUCTING SPORTS CONTESTS AND SWEEPSTAKES; FAN CLUBS; PROVIDING ON-LINE NEWSLETTERS IN THE FIELD OF BASEBALL; ALL THE FOREGOING RELATING TO AND PROMOTING A PROFESSIONAL BASEBALL CLUB
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U.S. Registration No.	3689935	Application Date	10/04/2007
Registration Date	09/29/2009	Foreign Priority Date	NONE
Word Mark	IT'S TRIBE TIME NOW		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2007/10/05 First Use In Commerce: 2007/10/05 Clothing, namely, shirts, T-shirts, pullovers		

U.S. Registration No.	4002687	Application Date	10/04/2007
Registration Date	07/26/2011	Foreign Priority Date	NONE
Word Mark	TRIBE TIME		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2011/03/15 First Use In Commerce: 2011/03/15 Clothing, namely, shirts, T-shirts		

U.S. Application No.	78743054	Application Date	10/28/2005
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	TRIBE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: Clothing, namely, caps, hats, visors, knitted headwear, headbands, bandannas, shirts, T-shirts, tank tops, blouses, sweaters, turtlenecks, pullovers, vests, shorts, pants, slacks, dresses, skirts, baseball uniforms, jerseys, warm-up suits, jogging suits, sweatshirts, sweatpants, underwear, boxer shorts, robes, sleepwear, nightshirts, nightgowns, swimwear, clothing wraps, jackets, ponchos, cloth bibs, infant wear, infant diaper covers, cloth diaper sets with undershirt and diaper cover, jumpers, rompers, coveralls, creepers, baby booties, ties, belts, mittens, gloves, wristbands, earmuffs, scarves, footwear, socks, hosiery, slippers, and Halloween and masquerade costumes		

Attachments	LIGHT TRIBE - Letter to Commissioner.pdf(68781 bytes) LIGHT TRIBE - Notice of Opposition.pdf(19029 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Aryn M. Emert/
Name	Aryn M. Emert
Date	07/22/2013



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July 22, 2013

By Electronic Filing

Commissioner for Trademarks
Attn: TTAB
P.O. Box 1451
Alexandria, VA 22313-1451

Re: Cleveland Indians Baseball Company Limited Partnership
Notice of Opposition Against
Light Tribe Creations N.V.
Application to register LIGHT TRIBE
Ref. No. 21307.028

Dear Commissioner:

We enclose a Notice of Opposition against Application Serial Number 79/108,570 published in the Official Gazette on January 22, 2013. Contemporaneously with the electronic filing of this Notice of Opposition, we are arranging for an electronic payment in the amount of \$1,200.00 to cover the filing fee.

If the amount received is insufficient and additional fees are required, please charge our Deposit Account No. 03-3415.

Please address all future correspondence to the attention of Mary L. Kevlin of Cowan, Liebowitz & Latman, P.C.

Respectfully submitted,

/Aryn M. Emert/
Aryn M. Emert

Enclosures

cc: Ms. Diane Kovach (w/encs.)
Mary L. Kevlin, Esq. (w/encs.)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Application Serial No. 79/108,570
Filed: June 27, 2011
For Mark: LIGHT TRIBE
Published in the Official Gazette: January 22, 2013

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CLEVELAND INDIANS BASEBALL COMPANY :	
LIMITED PARTNERSHIP, :	Opposition No.
Opposer, :	
v. :	
LIGHT TRIBE CREATIONS N.V. , :	<u>NOTICE OF OPPOSITION</u>
Applicant. :	
-----X	

Commissioner for Trademarks
Attn: Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Opposer, Cleveland Indians Baseball Company Limited Partnership (“Opposer”), an Ohio limited partnership with offices at 2401 Ontario Street, Cleveland, OH 44115 believes that it will be damaged by registration of the standard character word mark LIGHT TRIBE (“Applicant's Mark”) in International Class 25 for “clothing, namely, shirts, pants, jackets, skirts and dresses; footwear, headgear, namely hats and caps,” in International Class 35 for “mediation of advertising and public relations; organizing of trade fairs and exhibitions for commercial purposes; business administration; market research and -analysis; distribution of advertising materials; business organization consultancy related to electronic commerce and electronic business; creation and development of business concepts and company strategies with regard to company communication and commercial management; drafting expertise reports in the field of market research and studies related to consumer behavior in relation to trademarks and trends;

consulting services in the field of the development of commercial business plans for strategies in the field of e-commerce and e-business, as well as drafting of business organization reports in these fields; providing data with regard to sustainable consumer goods for publicity and promotion purposes; distribution of advertisements of third parties via an online electronic network, publicity and sales promotion services; business management; marketing services; conducting public opinion polls; mediation of trade business for third parties; business consulting in regard to usage of electronic retail and on-line databases for business purposes; advertising and commercial information services, via the internet,” in International Class 38 for “providing internet chatrooms, transmitting digital messages, sound and/or images via computers; providing telecommunications connections to the internet or databases; news agency services for electronic transmission; providing access to databases; providing multiple-user access to data on the Internet in the field of searchable buying and selling guide for the purpose of localizing, organizing and displaying goods and services of third parties,” and in International Class 41 for “information in the field of entertainment, recreation, sport; providing online information for the purpose of leisure and entertainment; publication of magazines, newsletters and periodicals; on-line publication of magazines, newsletters and periodicals; education and training services, namely, providing seminars and classes in the field of wellness, health food, creative expression, eco activities, empowerment, fair trade, alternative energies, and body mind therapies; film and video production; entertainment services, namely, multimedia production services; production of sound and image recordings on sound and image carriers; organizing community sporting and cultural events; entertainment event booking agencies for the purpose of attending cultural, educational and sports events,” (collectively, “Applicant’s Goods and Services”) as shown in

Application Serial No. 79/108,570 (the “Application”), and having been granted extensions of time to oppose up to and including July 21, 2013, hereby opposes the same.

As grounds for opposition, it is alleged that:

1. Opposer is the owner of the renowned CLEVELAND INDIANS MAJOR LEAGUE BASEBALL club.

2. Since long prior to June 27, 2011, Applicant’s constructive first use date, Opposer, its predecessors, and their affiliated and related entities, licensees and/or sponsors have used marks and names that comprise or contain the word TRIBE either alone or with other word, letter and/or design elements, in connection with baseball games and exhibition services and a variety of goods and services, including, but not limited to, apparel; retail services and online retail services; providing information in the field of entertainment, sports and related topics; providing online information for the purposes of entertainment, sports and related topics; organizing community sporting events; jewelry; toys and sporting goods; and novelty items, and Opposer has been extensively referred to, and well known by fans, the press, media and public as the “TRIBE” (collectively, “Opposer’s TRIBE Marks”).

3. Opposer owns United States federal registrations and an application for Opposer’s TRIBE Marks in International Classes 25 and 41; namely, Registration Nos. 1,857,634, 3,659,395, 3,689,935 and 4,002,687 and Application Serial No. 78/743,054.

4. Since long prior to June 27, 2011, Applicant’s constructive first use date, Opposer, its predecessors, and their affiliated and related entities, licensees and/or sponsors have promoted and advertised the sale and distribution of goods and services bearing or offered in connection with Opposer’s TRIBE Marks, including, but not limited to, baseball games and exhibition services and a wide variety of goods and services, including, but not limited to,

apparel; retail services and online retail services; providing information in the field of entertainment, sports and related topics; providing online information for the purposes of entertainment, sports and related topics; organizing community sporting events; jewelry; toys and sporting goods; and novelty items, and have offered such goods and rendered such services in commerce.

5. As a result of the extensive sales, distribution and promotion of its goods and services bearing or offered in connection with Opposer's TRIBE Marks, and of the extensive use of the name and mark "TRIBE" by fans, consumers, the press, media and public to refer to Opposer, Opposer has built up highly valuable goodwill in Opposer's Marks, and said goodwill has become closely and uniquely identified and associated with Opposer.

6. On June 27, 2011, Applicant filed the Application pursuant to Section 66(a) requesting an extension of protection to the United States of an international registration for Applicant's Mark for Applicant's Goods and Services.

7. Upon information and belief, Applicant did not use Applicant's Mark for Applicant's Goods and Services in United States commerce prior to its constructive first use date of June 27, 2011.

8. Applicant's Goods and Services are identical and/or closely related to the goods offered and services rendered in connection with Opposer's TRIBE Marks.

9. Applicant's Mark so resembles Opposer's TRIBE Marks as to be likely, when used in connection with Applicant's Goods and Services, to cause confusion, to cause mistake, and to deceive the trade and public, who are likely to believe that Applicant's Goods and Services have their origin with Opposer and/or that such goods and services are approved,

endorsed or sponsored by Opposer or associated in some way with Opposer. Opposer would thereby be injured by the granting to Applicant of a certificate of registration for Applicant's Mark.

WHEREFORE, Opposer believes that it will be damaged by registration of Applicant's Mark and requests that the opposition be sustained and said registration be denied.

Please recognize as attorneys for Opposer in this proceeding Mary L. Kevlin, Richard S. Mandel and Aryn M. Emert (members of the bar of the State of New York) and the firm Cowan, Liebowitz & Latman, P.C., 1133 Avenue of the Americas, New York, New York 10036.

Please address all communications to Mary L. Kevlin, Esq. at the address listed below.

Dated: New York, New York
July 22, 2013

Respectfully submitted,

COWAN LIEBOWITZ & LATMAN, P.C.
Attorneys for Opposer

By: /Aryn M. Emert/

Mary L. Kevlin
Richard S. Mandel
Aryn M. Emert
1133 Avenue of the Americas
New York, New York 10036
(212)790-9200

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on July 22, 2013, I caused a true and correct copy of the foregoing Notice of Opposition to be sent via First Class Mail, postage prepaid, to Applicant's Attorney and Correspondent of Record on TSDR, Roberto Ledesma, Law Office of Roberto Ledesma, P.O. Box 230692, New York, New York 10023, but who Opposer has been informed has withdrawn from representation of this matter due to a conflict, a copy via Air Mail, postage prepaid, to Applicant, Light Tribe Creations N.V., Wilhelminalaan 13 Curaçao, Curacao and a copy via Air Mail, postage prepaid, to Applicant's Attorney, Alexander Odle, Van Miereveldstraat 11, 1071 DW Amsterdam, the Netherlands.

/Aryn M. Emert/

Aryn M. Emert